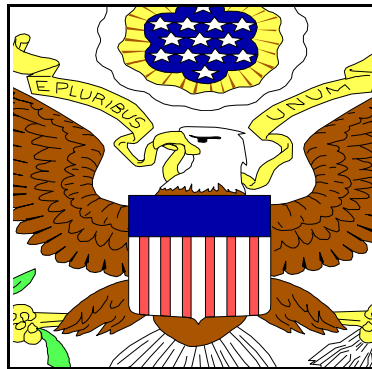


JUDICIAL CONFERENCE OF THE UNITED STATES

STATEMENT OF

JUDGE JANE R. ROTH
U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT



BEFORE

THE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

UNITED STATES HOUSE OF REPRESENTATIVES

ON

THE FY 2003 COURTHOUSE CONSTRUCTION PLAN

JUNE 5, 2002

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear before you today in my capacity as the chairman of the Judicial Conference Committee on Security and Facilities. Chairman LaTourette and Representative Costello, I look forward to working with you, the other members of the Subcommittee, and your staffs in the future.

The judiciary greatly appreciates the authorizations provided for courthouse projects last year. Unfortunately, the Congress was unable to fund all the courthouses that the subcommittee authorized. This year, the judiciary is seeking increased authorization for some of those projects which did not get funding last year as well as authorization of the projects scheduled for FY 2003.

FY 2003 Courthouse Program

The President's FY 2003 budget request includes \$260 million for ten courthouse construction projects and \$66.9 million for six court-related repair and alteration projects. The budget request for new construction, however, is only a portion of the judiciary's FY 2003 requirements submitted by the General Services Administration (GSA) for funding this year. Because of a substantial backlog in unfunded projects, which I will address later in my statement, the total requirement for new construction in FY 2003 is \$1.02 billion.

A copy of the FY 2003 courthouse projects from the judiciary's five-year plan is attached for your information. You will note that this list is different from other years -- it has two columns. The first FY 2003 column lists those projects that were scheduled for funding in FY 2002 or earlier, but were not funded. The second FY 2003 column lists the projects already planned for FY 2003, plus a project in Charlotte, North Carolina which had been slated for FY 2004 site and design funding, but is now ready for design funding.

Therefore, in addition to supporting the courthouse construction projects included in the budget request, the judiciary urges authorization of 12 more projects for FY 2003 in Savannah, Georgia; Cape Girardeau, Missouri; Orlando, Florida; San Jose, California; Los Angeles, California; Richmond, Virginia; San Antonio, Texas; Anniston, Alabama; Harrisburg, Pennsylvania; Greenville, South Carolina; Toledo, Ohio; and Charlotte, North Carolina.

The Judicial Conference also supports providing a federal office building to house federal agencies in Atlanta, Georgia, including the court of appeals staff. In addition, we are seeking authorization of additional site and design funding for the Buffalo, New York courthouse which GSA determined should be moved to a new site for security reasons. Finally, we are working closely with GSA on renovation of the Thurgood Marshall United States Courthouse in New York City and request that design funds be authorized for that project this year.

Attached to this statement are two charts that identify the specific authorizations required for courthouse construction projects and courthouse repair and alteration projects in FY 2003.

Courthouse Backlog

Since 1996, when the judiciary started approving prioritized, Five-Year Courthouse Project Plans, GSA has received nearly \$2 billion to replace aging court facilities. The judiciary is extremely grateful for the support shown by Congress in providing this funding. However, because funding has not been provided as planned at the \$500 million per year level as originally agreed by Congress and the judiciary, there is a backlog of projects.

The shortfall in courthouse funding since 1996, \$2.1 billion, would fund 47 projects on the Five-Year Courthouse Project Plan for 2003-2007. This is more than half the projects on the plan. Delaying the projects results in significant cost increases. Although GSA has estimated that construction costs were increasing 3-4 percent for each year of delay, in many cases the

escalation factors have been much higher. Consequently, had the 22 projects the judiciary supports in FY 2003 been built when they were originally scheduled, the projected costs would have been approximately \$24 million lower than they are today due to inflation.

Special Requirements are Permitted by *Design Guide*

The judiciary understands that GSA has provided the Subcommittee with a list of “departures” from the *U.S. Courts Design Guide*. The judiciary does not agree that these special requirements are not appropriate for the courthouses at issue or that these “departures” should be deleted from the courthouses involved. The fact that the provisions of the *Design Guide* would not fit every courthouse situation in every location was anticipated when the *Design Guide* was approved in 1991. The judiciary has established a process for reviewing and approving special requirements necessitated by local circumstances. The *Design Guide* clearly states that “any significant departures from design criteria contained in the *Guide* must be approved by the appropriate circuit judicial council.” The *Guide* also provides that “the *Guide* is intended to be a performance document, not a prescriptive document that dictates the means of achieving an end.” As such, these special requirements are in no way inconsistent with the intent of the *Design Guide*.

I hope the Subcommittee will understand that local circumstances sometimes warrant a change from the normal standard. The nature of a court’s caseload, the number of judges to be housed, and the distances between court facilities are but some of the factors that influence housing needs at a given location. For example, in Brooklyn, New York, the special proceedings courtroom is not assigned to a judge because it is used almost every day for naturalization ceremonies. The cost of renting space for these ceremonies would far exceed the cost of the courtroom over the life of the building. In addition, in some cases, senior judges are assigned

courtrooms for longer than ten years because they are willing to assist with the judiciary's heavy caseload. If senior judges are willing to keep working, essentially for free since they could be retired, the government should provide a place for them to hold trials. The judiciary has provided to your staff an explanation of each special requirement reported by GSA.

Such special requirements result in minor increases in square footage and minimal costs in the long term. The "departures" GSA has reported to you equal two percent of the estimated total project cost for the projects in the FY 2003 President's budget. If we exclude the largest "departure" cited by GSA, the cost difference is less than one percent of the estimated total project costs.

The judiciary will use these courthouses for decades into the future; shortsightedly making them smaller than needed will only necessitate the judiciary returning to Congress to request additions to relatively new courthouses at greater expense to taxpayers. We hope you will provide authorization for these courthouses based on the requirements submitted by the courts. We will be happy to work with the Subcommittee staff to reconcile differences between the "departures" list provided to them and the judiciary's request.

New Courthouses are Needed

As you know, the judiciary has little control over its workload. The courts must handle the criminal cases brought by the Department of Justice, the civil cases brought by plaintiffs, and the bankruptcy cases filed by debtors and businesses. These cases have increased significantly in number over the last ten years. Since 1991, bankruptcy cases have increased 56 percent, criminal cases have increased 36 percent, and civil cases have increased 19 percent. In fiscal year 2001, probation and pretrial services officers supervised a record number of offenders and defendants (139,797) living in our communities. This figure surpasses the federal prisoner population and is

projected to continue to grow in fiscal years 2002 and 2003.

For a courthouse project to be considered, the district's long-range facility plan must indicate that there is no more room for judges in the existing facility. Although it can lead to inefficient court operations, court-related units (probation, pretrial services, and the bankruptcy court), as well as Executive Branch agencies, have usually already been moved from the existing building to gain space. Therefore, the projects on the Five-Year Plan are urgently needed when they are placed on the plan and delays only exacerbate problems.

Many of the courthouses that the judiciary uses are more than 50 years old and can be dangerous, uncomfortable, and inefficient for those who work in and visit them. Adequate security is a major problem. The courthouses often lack separate routes of circulation so that prisoners are transported through the same areas and elevators as judges, jurors, and members of the public. Some courthouses do not have holding cells adjacent to courtrooms or sally ports for bringing prisoners into the courthouses in a secure manner. The heating, ventilation, and electrical systems are often inadequate as well. Moreover, in some of the older courthouses, the infrastructure will not allow the wiring necessary for courtroom technology such as video evidence presentation systems, videoconferencing systems, and electronic methods of taking the record, which will streamline trials and improve the quality of justice.

We have provided Subcommittee staff with a fact sheet on each FY 2003 courthouse project that describes the current housing situation and need for a project at that location.

Controlling Costs

Although courthouses are built and owned by GSA, the judiciary is mindful of the need to be a prudent participant in the process. Since the courthouse construction program began, it has become increasingly rigorous and structured in order to control costs. The judiciary has

established a long-range facilities planning process to determine the ability of existing facilities to meet the judiciary's projected space needs and a courthouse prioritization process to provide projects with scores based on defined criteria. The *U.S. Courts Design Guide* was published in 1991 to provide reasonable functional and durability requirements for courthouses. In addition, GSA instituted a benchmarking process to evaluate the cost of proposed new construction projects and to help identify potential savings. These activities help the judiciary and GSA ensure Congress that the projects of greatest need are being constructed as efficiently as possible.

Conclusion

Thank you for the opportunity to testify today and I again thank the Subcommittee for its support of the courthouse program. I am happy to answer any questions you may have regarding the judiciary's facilities requirements for FY 2003.

Five-Year Courthouse Project Plan 2003-2007
As Approved by the Judicial Conference of the United States
March 13, 2002

(estimated dollars in millions)
Fiscal Year 2003 Request

Requirements Unfunded From Prior Fiscal Year Plans				Score		FY 2003 Requirements				Score
1	Brooklyn, NY	Add'l. C	\$39.5	100.0		1	Los Angeles, CA	C	\$414.0	85.0
2	Savannah, GA *	C	\$70.0	45.8		2	Richmond, VA	C	\$75.6	85.0
3	Eugene, OR	C	\$77.4	73.7		3	San Antonio, TX	D	\$6.9	61.3
4	Fort Pierce, FL	D	\$2.7	65.7		4	Anniston, AL	S&D	\$3.1	58.6
5	Jackson, MS	D	\$7.3	64.8		5	Harrisburg, PA	S&D	\$18.7	58.3
6	Austin, TX	S&D	\$13.8	61.5		6	Greenville, SC	S&D	\$8.3	56.6
7	San Diego, CA (USDC)	Add'l. S/D	\$23.9	58.4		7	Toledo, OH	S&D	\$6.0	54.4
8	Salt Lake City, UT	Add'l. S/D	\$6.0	55.9		8	Charlotte, NC	D	\$8.6	54.0
9	Little Rock, AR	C	\$77.2	54.8						
10	Cedar Rapids, IA	D	\$5.2	52.9						
11	Cape Girardeau, MO	C	\$49.3	52.3						
12	Nashville, TN	D	\$7.1	51.8						
13	Orlando, FL	C	\$79.3	50.3						
14	San Jose, CA	Add'l. S/D	\$20.0	39.5						
	Total		\$478.7						\$541.2	

S = Site; D = Design; C = Construction; Add'l. = Additional

* Of the total requested for Savannah, GA, approximately \$47 million is for construction of an annex and approximately \$23 million is for repair and alteration of the existing courthouse.

Authorizations Required for FY 2003 Courthouse Construction Projects
(Dollars in Millions)

<u>Project Location</u>	<u>Appropriation Request</u>		<u>Previous Authorization</u>		<u>Previous Approps.</u>		<u>2003 Authorization Required</u>		
	<u>For This Stage of Project</u>		<u>House</u>	<u>Senate</u>	<u>This Stage of Project</u>		<u>House</u>	<u>Senate</u>	
Requirements Unfunded from Prior FY Plans									
Brooklyn, NY	\$39.500	Add'l Const.	\$26.000		\$26.000	0		\$13.500	\$13.500
Savannah, GA	70.000	Const.	0		46.462	0		70.000	23.538
Eugene, OR	77.374	Const.	0		0	0		77.374	77.374
Fort Pierce, FL	2.744	Design	4.565	S&D	4.314	S&D	2.269 Site only	0.448	0.699
Jackson, MS	7.276	Design	13.231	S&D	13.231	S&D	6.710 Site only	Not needed	Not needed
Austin, TX	13.809	Site & Design	12.923	S&D	12.923	S&D	0	Not needed	Not needed
San Diego, CA	23.901	Add'l S&D	14.337	Ad S&D	14.337	Ad S&D	0	9.564	9.564
Salt Lake City, UT	6.018	Add'l S&D	5.680	Ad S&D	5.680	Ad S&D	3.000 Ad S&D	3.338	3.338
Little Rock, AR	77.154	Const.	0		0	0		77.154	77.154
Cedar Rapids, IA	5.167	Design	13.474	S&D	13.606	S&D	9.785 Site only	1.478	Not needed
Cape Girardeau, MO	49.300	Const.	41.735		41.735	0		7.565	7.565
Nashville, TN	7.095	Design	20.696	S&D	21.069	S&D	14.700 Site only	Not needed	Not needed
Orlando, FL	79.300	Const.	0		0	0		79.300	79.300
San Jose, CA	20.000	Add'l S&D	19.441	Ad S&D	19.441	Ad S&D	0	Not needed	Not needed
FY 2003 Requirements									
Los Angeles, CA	414.000	Const.	0		0	0		414.000	414.000
Richmond, VA	75.600	Const.	0		0	0		75.600	75.600
San Antonio, TX	6.900	Design	0		0	0		6.900	6.900
Anniston, AL	3.100	Site & Design	0		0	0		3.100	3.100
Harrisburg, PA	18.700	Site & Design	0		0	0		18.700	18.700
Greenville, SC	8.300	Site & Design	0		0	0		8.300	8.300
Toledo, OH	6.000	Site & Design	0		0	0		6.000	6.000
Charlotte, NC	8.600	Design	0		0	0		8.600	8.600
Additional FY 2003 Requirements Not on Plan									
Buffalo, NY	7.680	Add'l S&D	0		0	0		7.680	7.680
Atlanta, GA	25.000	Site & Design	0		0	0		25.000	25.000

Projects where authorization is "not needed" were previously authorized and current estimate does not exceed that authorization by more than 10%.

Authorizations Required for FY 2003 Courthouse Repair and Alteration Projects
(Dollars in Millions)

<u>Project Location</u>	<u>Requested in President's Budget</u>	<u>Authorization Required</u>
Construction Phase		
Davenport, IA, Federal Building & U.S. Courthouse	\$12.586	\$12.586
Manchester, NH, Norris Cotton Federal Building	17.668	17.668
Cleveland, OH, Howard M. Metzenbaum U.S. Courthouse	15.212	15.212
Dallas, TX, Earle Cabell Federal Building-Courthouse and Santa Fe Federal Building	16.394	16.394
Design Phase		
St. Paul, MN, Warren E. Burger Federal Building & U.S. Courthouse	2.591	2.591
New York, NY, Thurgood Marshall U.S. Courthouse	0	14.000
Seattle, WA, William Kenzo Nakamura U.S. Courthouse	2.455	2.455